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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,211	09/16/2003	Alan F. Hassett	9703-17U1	2353
570	7590	03/11/2005	EXAMINER	
AKIN GUMP STRAUSS HAUER & FELD L.L.P.			UPTON, CHRISTOPHER	
ONE COMMERCE SQUARE			ART UNIT	
2005 MARKET STREET, SUITE 2200			PAPER NUMBER	
PHILADELPHIA, PA 19103-7013			1724	

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,211

Applicant(s)

HASSETT, ALAN F.

Examiner

Christopher Upton

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3,10,11,16-19,21,22 and 25-28 is/are rejected.
- 7) ☒ Claim(s) 2,4-9,12-15,20,23 and 24 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Be

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Inglis or Dea.

Inglis and Dea each disclose aerobic biological treatment followed by discharge to a drainfield, as claimed.

3. Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Johnson.

Johnson discloses the flushing of a drainfield by inserting a water jet into a lateral and simultaneously vacuuming the lateral, as claimed.

4. Claims 1, 3, 10, 11, 16, 17 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Tipton.

Tipton discloses a biological treatment system comprising a drainfield with perforated outer and inner pipes connected to a treatment tank, as claimed.

5. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tipton in view of Dea or Inglis.

Claims 18 and 19 differ from Tipton in recitation of a controller for the effluent. It is well known to use a sensor to control discharge from a treatment tank to a drainfield, as exemplified by Dea and Inglis. It would therefore have been obvious for one skilled in the art to use a sensor in the treatment tank of the system of Tipton, to provide proper dosing to the drainfield.

6. Claim 22 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tipton.

Claim 22 differs, if at all, from Tipton in recitation of biological treatment occurring in the pipe. It is submitted that such biological treatment would obviously be inherently occurring in the system of Tipton, due to the presence of treating microorganisms. Note that Tipton discloses that phosphorus and nitrate are reduced in the drainfield bed (see paragraph 34 of the publication or column 5, lines 13-16 of the patent).

7. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tipton in view of Moore or Johnson.

Claims 25 and 26 differ from Tipton in recitation of using delivering liquid and using a vacuum to flush the system. It is known to deliver liquid and remove it with a vacuum to flush a drainfield pipe, as exemplified by Moore and Johnson. It would therefore have been obvious for one skilled in the art to use flush water and a vacuum to flush the drainfield pipes of Tipton, to clean them and prevent clogging.

8. Claims 2, 4-9, 12-15, 20, 23 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The recitation of a biological treatment system comprising a drainfield with a perforated effluent distribution pipe within a perforated outer pipe for dispensing the effluent to the drainfield, wherein the distribution pipe is located adjacent an inside bottom surface of the outer pipe, as recited in claim 2; a gas delivery pipe is positioned within the outer pipe as recited in claim 5 and 23; or a perforated flushing pipe is positioned within the outer pipe as recited in claim 12 patentably distinguish over the prior art of record. These limitations are not shown by the prior art of record.

The recitation of a biological treatment system comprising a drainfield with a perforated effluent distribution pipe within a perforated outer pipe for dispensing the effluent to the drainfield, wherein a packing material or media are located within the outer pipe as recited in claim 20; or the outer pipe perforations are spaced along opposite sides of the outer pipe as recited in claim 4 patentably distinguishes over the prior art of record. While such features are known in a single pipe system, as disclosed

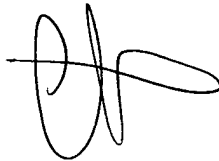
by Branz, there is no motivation for one of ordinary skill in the art to combine these limitations with the double pipe system of Tipton, as Branz discloses that these features are to provide a biological treatment of a BOD of less than 125 mg/l; while Tipton discloses treatment to a BOD of less than 20 mg/l prior to discharge to the pipe and drainfield system.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references of interest include the piping systems of Izatt, Pramsoler, Jowett and Malone; and the cleaning systems of Parmelee and Shaddock.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Upton whose telephone number is 571-272-1169. The examiner can normally be reached on 7:30-5:00, off every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a horizontal line and a small loop.

Christopher Upton
Primary Examiner
Art Unit 1724